

## 9-139.000

# MISCELLANEOUS LABOR STATUTES

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- 9-139.020**     **Investigatory and Supervisory Jurisdiction for Miscellaneous Labor Statutes**  
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### **9-139.020 Investigatory and Supervisory Jurisdiction for Miscellaneous Labor Statutes**

For information on investigative jurisdiction, see the Criminal Resource Manual at 2455. The Labor-Management Unit of the Organized Crime and Racketeering Section has supervisory jurisdiction concerning criminal enforcement of the following statutes in all cases:

- 45 U.S.C. § 152, Tenth Railway Labor Act. *See* USAM 9-139.103, and the Criminal Resource Manual at 2454.
- 29 U.S.C. § 216(a) Fair Labor Standards Act. *See* the Criminal Resource Manual at 2456.
- 29 U.S.C. § 162 Interference with National Labor Relations Board Agent. *See* the Criminal Resource Manual at 2457.
- 29 U.S.C. § 461 and Sec. 463 Labor Organization Under Trusteeship. *See* the Criminal Resource Manual at 2460.
- 29 U.S.C. § 502 Bonding of Officers and Employees of Labor Organizations. *See* the Criminal Resource Manual at 2461.
- 29 U.S.C. § 503 Loans to Union Officers and Payment of Fines by Unions and Employers. *See* the Criminal Resource Manual at 2462.
- 18 U.S.C. § 1231 Transportation of Strikebreakers. *See* the Criminal Resource Manual at 2463.

The Labor-Management Unit of the Organized Crime and Racketeering Section has supervisory jurisdiction concerning criminal enforcement of the following statutes in labor disputes. Violations of these statutes not involving labor disputes are supervised by the Terrorism and Violent Crimes Section.

- 18 U.S.C. § 33 Destruction of Motor Vehicles. *See* the Criminal Resource Manual at 1426-27.
- 18 U.S.C. § 844 Use of Explosives or Arson. *See* USAM 9-63.900 and the Criminal Resource Manual at 2458.
- 49 U.S.C. § 80501 Damage to Property Being Transported In Interstate Commerce [formerly 15 Sec. 1281 and Sec. 1282 transferred effective July 5, 1994]. *See* the Criminal Resource Manual at 2459.

### **9-139.100 The Railway Labor Act (RLA) -- 45 U.S.C. § 151, et seq.**

The Railway Labor Act (RLA) provides for criminal prosecution with respect to the willful failure or refusal of a railway or airline carrier, or its officers or agents, to comply with the terms of the third, fourth, fifth, seventh,

and eighth paragraphs of 45 U.S.C. § 152, Tenth, which deal with labor-management relations in the railway and airline industries. See the Criminal Resource Manual at 454.

### **9-139.103 Railway Labor Act -- Authorization for Criminal Prosecution**

Consultation with the Labor-Management Unit of the Organized Crime and Racketeering Section is required prior to initiating criminal prosecution under the Railway Labor Act. As a matter of policy, prosecutions as well as requests for investigation concerning violations of 45 U.S.C. § 152, Tenth, should be declined unless they contain allegations of egregious carrier interference with employee rights tantamount to actual or threatened violence, or involve prohibited payments to employee representatives. This policy is instituted primarily as a result of *United States v. Winston*, 558 F.2d 105 (2d Cir. 1977), wherein the Second Circuit reversed a conviction under 45 U.S.C. § 152, Tenth.

In *Winston*, defendants, owners and operators of a small airline charter service, were charged with conspiracy to violate the Railway Labor Act by conduct which would have been at most an unfair labor practice in an industry other than the railway or airline industries under Federal law. Accordingly, under this prosecution policy, the mere commission of an unfair labor practice is insufficient to justify criminal prosecution under the Railway Labor Act, absent the presence of one or more of the aggravating factors described above.

This policy change has the effect of treating the parties to airline and railway labor disputes for purposes of criminal prosecution in the same manner as parties in labor disputes in other federally regulated industries.

In declining prosecution with respect to complaints alleging violations of 45 U.S.C. § 152, Tenth, it may be appropriate to advise the complainant that redress may be available to him through private civil litigation.

This policy does not apply to civil litigation under 45 U.S.C. § 152, Tenth as supervised by the Civil Division. If it is determined that a particular matter merits civil enforcement under 45 U.S.C. § 152, Tenth, the Civil Division should be contacted before any action is taken. See the Criminal Resource Manual at 2454.